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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/715,101	11/17/2003	Kent D. Cedola	MS1-400USC1	3266
22801	7590	06/02/2005	EXAMINER	
LEE & HAYES PLLC 421 W RIVERSIDE AVENUE SUITE 500 SPOKANE, WA 99201			HALIM, SAHERA	
			ART UNIT	PAPER NUMBER
			2157	
DATE MAILED: 06/02/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/715,101

Applicant(s)

CEDOLA, KENT D.

Examiner

Sahera Halim

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 May 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 4-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 4-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. This Office Action is in respond to the RCE filled on May 3, 2005.
2. Claim 3 has been cancelled.
3. Claims 1, 10, 11, 12, 14, 16, and 17 have been amended. Although Claim 17 is labeled Original, it has been amended in its body. Thus it is considered amended.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Kennedy et al., U.S. Pat. No. 5490209.
6. Reference to claim 1, Kennedy teaches in a computer system having a host computer coupled to a client computing device via a serial connection, an operating system embodied on a computer-readable medium at the host computer, comprising (fig. 1 and col. 1, lines 29 – 42):

computer-executable instructions to listen at a first baud rate for a predefined message sent from the client computing device (abstract and col. 1, (col. 2, lines 26-50);

computer-executable instructions to listen at a second baud rate for the predefined message in an event that the predefined message is not received at the first baud rate (col. 2, line 26 – col. 3, line 12); and

computer-executable instructions to listen at the second baud rate for the predefined message in an event that error characters not forming part of the predefined message are received at the first baud rate (col. 4, lines 19-67).

7. Regarding claim 2, Kennedy teaches executable instruction to listen at the first baud rate for a predetermined period (col. 5, lines 1-34).

8. Reference to claim 4, Kennedy teaches executable instructions to cache the second baud rate in an event that the predefined message is received at the second baud rate (col. 2, lines 13-24).

9. Regarding claim 5, Kennedy teaches executable instructions to look up the first and second baud rates in a table (col. 2, lines 1-16).

10. As to claim 6, Kennedy discloses a processor; and the operating system of claim 1, embodied on the computer medium and executed on the processor (fig. 1 and col. 1, lines 29 – 42, abstract and col. 1, col. 2, lines 26-50 and col. 2, line 26 – col. 3, line 12).

11. Reference to claims 7 and 9, Kennedy teaches inn a computer system having a host computer coupled to a client computing device via a serial connection, a computer program module embodied on a computer-readable medium for execution at the host computer, comprising:

computer-executable instructions to listen at a first baud rate at which a predefined message might be sent from the client computing device over the serial connection col. 2, lines 26-34 and col. 2, lines 36-51); and

computer-executable instructions to switch to listening at a second baud rate if one of the following events occurs: (1) characters not included in the predefined message are received, or (2) a predetermined timeout period expires without successful receipt of the predefined message (col. 4, lines 19-67 and (col. 5, lines 1-34).

12. Regarding claim 8, Kennedy discloses claim 7, further comprising computer-executable instructions to cache one of the first and second baud rates at which the predefined message is successfully received (col. 2, lines 13-24).

13. Reference to claim 10, computer-implemented method, comprising: listening at a first of multiple baud rates for a predefined message to be sent by a client computing device over a serial connection to a host computer; in an event that characters not included as part of the predefined message are received or the predefined message is

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not detected within a predetermined time period, listening at a second of the baud rates for the predefined message (col. 2 line 13 –col. 3, line 4).

14. Reference to claim 11, Kennedy discloses a computer-implemented method of claim 18, wherein the listening steps are repeated until a baud rate is found that allows receipt of the predefined message (col. 2 line 13 –col. 3, line 4).

15. As to claim 12, Kennedy teaches a computer-implemented method of claim 19, further comprising storing the baud rate that enables receipt of the predefined message (col. 2 lines 13-51).

16. Reference to claim 13, Kennedy teaches a computer-implemented method of claim 18, further comprising storing the multiple baud rates in a table (col. 2, lines 1-12).

17. As to claim 14, Kennedy teaches a computer-implemented method, comprising: listening to a serial connection at a baud rate for a predefined message from a client computing device; and automatically adjusting the baud rate in an event that error characters in the predefined message are not detected (col. 2, lines 26 – 51).

18. As to claim 15, Kennedy discloses a computer-implemented method of claim 22, wherein the adjusting comprises cycling through a set of predetermined baud rates (col. 2, lines 26 – 51, col. 4 line 1-18).

19. Reference to claim 16, Kennedy teaches a computer-implemented method of claim 22, further comprising caching the baud rate at which the predefined message is detected (col. 4, lines 45-59, col. 2, lines 36- 51).

20. Reference to claim 17, in a computer system having a host computer coupled to a client computing device via a serial connection and employing a Unimodem null serial protocol to establish a connection between the host computer and the client computing device, a computer-implemented method, comprising:

(a) storing multiple baud rates at which a predefined message may be sent from the client computing device over the serial connection (col. 4, lines 1-18);

(b) selecting one of the baud rates (col. 4, lines 19- 44);

(c) listening at the selected baud rate for the predefined message (col. 4, lines 19- 44);

(d) in an event that the error characters in the predefined message are not received, selecting another of the baud rates (col. 4, lines 31-44); and

(e) repeating steps (c) and (d) until a baud rate is found that enables receipt of the predefined message (col. 2, lines 13 – 67).

Response to Arguments

21. Applicant's arguments filed May 3, 2005 have been fully considered but they are not persuasive. In respond to the Applicant's arguments regarding the independent claims 1, 7, 10, and 17 that Kennedy does not teach a predefined message, the

examiner asserts that Kennedy does disclose this limitation. The applicant correctly recognized on page 8, line 5 – 8 of the remarks that Kennedy discloses, “when the **incoming valid character or message**, are stored and the received data pattern is analyzed for the presence of transmission error such as framing, parity and overrun (See col. 2, lines 26 – 31 of Kennedy)”. The applicant argues that the length of the message is a factor. The length of the message is not a factor because a carriage return is represented by binary numbers (zeroes and ones) and a message also has to convert to binary numbers when being manipulated. Therefore, a carriage return is not a single character when it is used to determine a baud rate. The carriage return is used as an example in Kennedy. Kennedy discloses bits of received data (see. col. 2 line 26 – 31). In light of the specification, the prior art discloses to the extent of what the independent claims are calling for and what was disclosed in the original specification.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sahera Halim whose telephone number is (571) 272-4003. The examiner can normally be reached on M-F from 8:30-5:00.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571) 272-4001.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sahera Halim
Patent Examiner
AU: 2157

May 23, 2005


ARJO ETIENNE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

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